



2025:DHC:5984-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 22.07.2025

+ W.P.(C) 17560/2022
JAI BHAGWAN GUPTA,

.....Petitioner

Through: Mr.Krishnapal Gupta, Adv.

versus

THE CONTROLLER GENERAL OF ACCOUNTS AND ORS

.....Respondents

Through: Mr.Subhash Tanwar, CGSC
with Mr.Naveen, Ms.Bhavi
Garg, Mr.Rajdev Kumar and
Ms.Anesweta Sahoo, Advs. and
Mr.Deepak Tanwar, GP and
Mr.Rahul Kumar Sharma, GP

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed by the petitioner, challenging the Order dated 19.04.2022 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'Tribunal') in O.A. 1305/2015, titled ***Jai Bhagwan Gupta v. The Controller General of Accounts & Ors.***, whereby the learned Tribunal dismissed the O.A. filed by the petitioner herein.

2. The petitioner had filed the above O.A. before the learned Tribunal, challenging the Order dated 02.07.2012 by which his request



for grant of the 2nd financial upgradation under the Assured Career Progression Scheme (in short, 'ACP Scheme') was rejected by the respondents.

3. It is an admitted fact that the petitioner had joined as an Auditor in the office of the Accountant General Central Revenues (AGCR) on 24.08.1973. He was promoted to the post of Senior Accountant on 01.04.1987 and took voluntary retirement on 01.12.1999. He had applied for the grant of the 2nd financial upgradation under the ACP Scheme.

4. The learned counsel for the petitioner submits that although, by an Office Memorandum dated 18.01.2001, the benefit of the ACP Scheme was extended even to those who had not cleared the promotional examination, the same was denied to the employees who were not in service as on that date, which was justified as a policy matter. This issue was later placed before the Principal Accounts Office, which, by a communication dated 15.03.2012, specifically in the case of the petitioner, recommended that he was entitled to the 2nd financial upgradation with effect from 23.08.1997, that is, the date of completion of 24 years of service. Despite this, the respondents did not release the 2nd financial upgradation under the ACP Scheme to the petitioner, compelling him to approach the learned Tribunal by way of the above O.A.

5. He submits that the respondents could not deny the benefit of the ACP Scheme to the petitioner, only on the ground that he had not cleared the promotional examination, while extending the same benefit to others, as it would amount to discrimination. In support of



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this contention, he places reliance on the Judgment of the Supreme Court in ***D.S. Nakara & Ors. v. Union of India***, (1983) 1 SCC 305.

6. He further draws our attention to an Office Order dated 17.05.2001 issued by the Principal Accounts Office, whereby the benefit of the 2nd financial upgradation under the ACP Scheme was extended to various employees who had also not cleared their promotional examination. He submits that, therefore, the denial of the 2nd financial upgradation to the petitioner is arbitrary and discriminatory, and the respondents should be directed to release the same to the petitioner.

7. On the other hand, the learned counsel for the respondents submits that for the promotion to the post of Senior Accountant, passing of the Junior Accounts Officer (Civil) Examination was essential until the Recruitment Rules were amended *vide* a Notification dated 08.01.2001. The amendment was made by O.M. dated 18.01.2001, with effect from 08.01.2001.

8. He further submits that as the petitioner had not cleared the above examination and had taken voluntary retirement prior to the coming into force of the amended Recruitment Rules, he was not entitled to the grant of the 2nd financial upgradation under the ACP Scheme. He submits that the other officers who were granted the benefit were still in service when the amended rules came into operation and, therefore, were rightly extended the benefit.

9. He further submits that, by the Impugned Order dated 02.07.2012, the Principal Accounts Office was also informed that as the policy decision to dispense with the examination became effective



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only from 08.01.2001, the benefit of the same could not be extended to those officers who had retired prior to 08.01.2001.

10. We have considered the submissions made by the learned counsels for the parties.

11. It is not disputed that the petitioner did not clear the abovementioned examination, which was a prerequisite for being considered for promotion to the post of Senior Accountant.

12. The ACP Scheme, introduced *vide* an O.M. dated 09.08.1999, was intended to alleviate the genuine stagnation and hardship faced by the employees due to the lack of adequate promotional avenues. It was, therefore, applicable to employees who were stagnating in a particular position due to the non-availability of promotional avenues. It cannot apply to those who could not gain such promotion because of their own inability to clear the examination required for the promotional post.

13. The requirement of clearing the examination for being considered for promotion to the post of Senior Accountant was dispensed with only with the amendment in the Recruitment Rules for the said post, effective from 08.01.2001. Thereafter, the employees could not have been denied the financial upgradation on the ground that they had failed to clear the said examination. All employees who were in service on that date, therefore, were accordingly granted such financial upgradation in accordance with the ACP Scheme with effect from 08.01.2001. However, the said benefit could not be extended to the petitioner as he had already taken voluntary retirement with effect from 01.12.1999. The Judgment of *D.S. Nakara & Ors.* (supra), in



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such circumstances, has no application.

14. Therefore, we find no merit in the present petition. The same is, accordingly, dismissed.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

JULY 22, 2025/ns/DG